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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,025	11/27/2006	Kurt Schunke	41781/44564	9006
23646	7590	03/16/2009	EXAMINER	
BARNES & THORNBURG LLP			WILLIAMS, ARUN C	
750-17TH STREET NW				
SUITE 900			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20006-4675			2838	
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			03/16/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/565,025	SCHUNKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ARUN WILLIAMS	2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 November 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 November 2006 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>11/27/2006</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show due to blank boxes, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**6. Claims 1-3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilinger, USNO. (2003/0089556) in view of Yuasa et al,(Yuasa), USPATNO. (6,495,991)**

As for claims 1 and 2, Eilinger discloses and shows in Fig. 1 a control unit for an electric motor of an actuator, the control unit comprising: a controller (10); a capacitive energy storage device (13) chargeable by a supply network (2) to supply power to the electric motor (9) in the event of a power failure, the capacitive energy storage device having a charge voltage (Abstract)

Eilinger discloses all limitations, but differs from the claimed invention because he does not explicitly disclose a temperature sensor assigned to the control unit to measure an ambient temperature; and a charge converter configured to convert the measured ambient temperature into a control signal to control the charge voltage as a function of the measured ambient temperature and an operation voltage controlled by the charge converter as a function of the measured ambient temperature to an approximately constant value.

Yuasa discloses and shows in Fig. 1 a temperature sensor (2) assigned to the control unit (9) to measure an ambient temperature; and a charge converter (11) configured to convert the measured ambient temperature into a control signal to control the charge voltage as a function of the measured ambient temperature. Furthermore, Yuasa discloses an operation voltage controlled by the charge converter (11) as a function of the measured ambient temperature to an approximately constant value (ref's full charge) (col.3,lines 43-58)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to Eilinger by using a temperature sensor assigned to the control unit to measure an ambient temperature and a charge converter configured to convert the measured ambient temperature into a control signal to control the charge voltage as a function of the measured ambient temperature and an operation voltage controlled by the charge converter as a function of the measured ambient temperature to an approximately constant value for advantages such as providing the ability to precisely control the temporal change of the battery temperature (col.3,lines 7-9), as taught by Yuasa.

As for claim 3, Eilinger discloses the capacitive energy storage device (13) is continuously acted upon by the operational voltage (2) (par. [0029]).

As for claim 5, Eilinger discloses the capacitive energy storage device (13) is acted upon by electric energy from an electric motor circuit (9) (par.[0029]).

**7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eilinger in view of Yuasa and further in view of Ito, USPATNO.(5,886,527)**

Eilinger in view of Yuasa discloses all limitations, but differs from the claimed invention because he does not explicitly disclose the temperature sensor being integrated in the controller of the control unit.

Ito discloses and shows in Fig. 1 the temperature sensor (21) is integrated in the controller of the control unit (8) (col.3, lines 8-19)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Eilinger modified by Yuasa by using the

temperature sensor being integrated in the controller of the control unit for advantages such as providing the ability to accurately determine the state of deterioration (col.1, lines 38-39), as taught by Ito.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun Williams whose telephone number is 571-272-9765. The examiner can normally be reached on Mon - Thurs, 5:30am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm Ullah can be reached on 571-272-2361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Akm Enayet Ullah/  
Supervisory Patent Examiner, Art Unit 2838

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/A. W./

Examiner, Art Unit 2838